

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

February 15, 2000

DIVISION ONE

Court convened at 9:00 A.M.

Present: Spencer, P.J., Ortega, J., Vogel (Miriam A.), J., Masterson, J. and S. Beaux,
Deputy Clerk.

Each of the following:

B122768 Horton v. City of Compton
B125386 People v. Bautista
B126147 People v. Moreno
B127735 People v. Warner
B128189 People v. Navarette
B128891 People v. Brown
B129125 People v. Ramirez
B129346 People v. Thompson
B130961 People v. Woods
B131410 People v. Lesley
B131621 Murillo et al. v. California Hospital et al.
B131751 People v. Gray
B131763 People v. Scott
B132249 People v. Misquez
B132329 People v. Hopkins
B132530 People v. Hagen
B132834 People v. Lujan
B134068 People v. Pintor

Argument waived cause submitted.

B125798 Grabovac
 v.
 Pfaffl

Merits:

Argued by Jeffrey A. Kopczynski for appellant and by Steven A. Schneider
for respondent. Cause submitted.

DIVISION ONE (Continued)

B128989 People
 v.
 Price

Merits:

Argued by Jean F. Matulis for appellant and by Michael J. Wise, deputy attorney general, for respondent. Cause submitted.

B130409 People
 v.
 Gutierrez

Merits:

Argued by Barbara Springer Perry for appellant and by Steve E. Mercer, deputy attorney general, for respondent. Cause submitted.

B136703 Anaya et al.
 v.
 S.C.L.A.
 City of Los Angeles et al.

Merits:

Argued by Lisa S. Berger, deputy city attorney, for real party in interest and by Arnoldo Casillas for petitioners. Cause submitted.

Spencer, P.J. leaves the bench.

B131746 Rafizadeh
 v.
 Caplan et al.

Merits:

Argued by Herman S. Palarz for appellants and by Jeff Lipow for respondent. Cause submitted.

DIVISION ONE (Continued)

B123650 Neason et al.
 v.
 The Regents of the University of California et al.

Merits:
Argued by Aaron M. Peck for appellant and by Carolyn Oill for respondents. Cause submitted.

Spencer, P.J. returns to the bench.

B135445 Cox Radio, Inc., et al.
 v.
 Superior Court, Los Angeles County
 (Tammy Bruce, r.p.i.)

Merits:
Argued by Carol F. Anderson for real party in interest and by Michael Kovaka for petitioners. Cause submitted.

B122182 People
 v.
 Donis et al.

Merits:
Argued by Diane Wanderer for appellant Donis, by Jean Matulis for appellant Ruvalcaba and by Beverly K. Falk, deputy attorney general, for respondent. Cause submitted.

B131601 Chiu
 v.
 Dean Witter Reynolds, Inc.

Merits:
Argued by Sterling Scott Winchell for appellant and by Peter M. DelVecchio for respondent. Cause submitted.

DIVISION ONE (Continued)

B127432 McAllister et al.
 v.
 Blue Cross of California

Merits:

Argued by Barry G. Reed for appellants and by Terrence M. King for respondents. Cause submitted.

Vogel (Miriam A.), J. leaves the bench.

B126149 Reinschreiber
 v.
 The Frederick R. Weisman Co., et al.

Merits:

Argued by Gina M. Calvelli for appellant Reinschreiber, by Roy G. Weatherup for appellant Riordan & McKinzie and by Patricia Lofton for respondents. Cause submitted.

Court adjourned.

B133140 Los Angeles County, D.C.F.S. (Not for Publication)
 v.
 Thomas F., et al.

The order is affirmed

Spencer, P.J.

We concur: Vogel (Miriam A.), J.
 Masterson, J.

DIVISION ONE (Continued)

B127583 People (Not for Publication)
v.
Leiva et al.

The judgments are modified to stay the sentences imposed on count 2 as to each defendant. The court is directed to calculate each defendant's presentence credits and to include the same in the abstract of judgment. The clerk of the superior court is directed to prepare amended and corrected abstracts of judgment staying the sentences imposed on count 2, reciting the presentence credits awarded to each defendant and reciting that defendant Perucci's determinate sentence on counts 2 and 3 runs concurrently with the sentence imposed on count 1. The clerk then is to forward amended and corrected abstracts of judgment to the Department of Corrections. As amended, the judgment are affirmed

Spencer, P.J.

We concur: Vogel (Miriam A.), J.
Masterson, J.

B134645 People (Not for Publication)
v.
Christopher T.

The order is affirmed.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.
Masterson, J.

February 15, 2000-Continued

DIVISION ONE (Continued)

[illegible]

The order revoking probation and the judgments are affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
 Masterson, J.

B132249 People (Not for Publication)
v.
Misquez

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Masterson, J.

B132834 People (Not for Publication)
v.
Lujan

The order is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
 Masterson, J.

February 15, 2000-Continued

DIVISION ONE (Continued)

B135662 People (Not for Publication)
v.
Alvarado

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
Masterson, J.

B131763 People (Not for Publication)
v.
Scott

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

B128506 Los Angeles County, D.C.F.S. (Not for Publication)
v.
Robert H.

The order is affirmed.

Vogel (Miriam A.), J.

We concur: Ortega, Acting P.J.
Masterson, J.

DIVISION ONE (Continued)

B129411 Los Angeles County, D.C.F.S. (Not for Publication)
v.
Gayle W.

The orders are affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
 Ortega, J.

B122444 Kmart Corp. (Not for Publication)
v.
Superior Court, Los Angeles County
(Lockhart et al., r.p.i.)

THEREFORE, let a peremptory writ of mandate issue, commanding respondent superior court to vacate its May 7, 1998 order granting a partial new trial, as well as the Judgment on Special Verdict entered on March 17, 1998, and to retry this case in its entirety, with Barron's hearsay testimony excluded. Plaintiffs' appeal from the order granting a partial new trial on the issue of comparative liability is dismissed as moot. Each party to bear their own costs.

Spencer, P.J.

We concur: Vogel (Miriam A.), J.
 Masterson, J.

February 15, 2000-Continued

DIVISION TWO

B130250 Barnes (Not for Publication)
v.
Longs Drug Stores, Inc., et al.

The judgment is affirmed.

Nott, J.

We concur: Boren, P.J.
Mallano, J. (Assigned)

B129613 Barnes (Not for Publication)
v.
Bally Total Fitness Corporation et al.

The judgment is affirmed. Each party to bear their own costs.

Nott, J.

We concur: Boren, P.J.
 Cooper, J.

B125967 People (Not for Publication)
v.
Daniel

The judgment is affirmed.

Nott, J.

I concur: Boren, P.J.
I dissent: Mallano, J. (Assigned) (Opinion)

DIVISION TWO (Continued)

B127483 People (Not for Publication)
v.
Muro

The Court:

The judgment is affirmed.

Boren, P.J., Nott, J., Cooper, J.

B123188 People (Not for Publication)
v.
Chavez

The judgment is modified to impose a restitution fine of \$200 (1202.4, subd. (b)), and a parole revocation fine in the amount of \$200 (1202.45). The latter fine shall be suspended unless appellant is eventually placed on parole and parole is revoked. The abstract of judgment shall be amended to reflect these fines as well as the five-year consecutive sentence for the enhancement pursuant to section 667, subdivision (a) (1). In all other respects, the judgment is affirmed.

Nott, J.

We concur: Boren, P.J.
 Cooper, J.

DIVISION THREE

B135301 Joseph F., Sr. (Not for Publication)
v.
Superior Court, Los Angeles County
(Los Angeles County Department of Children and Family Services, r.p.i.)

The petition is denied. The stay is dissolved.

Kitching, J.

We concur: Klein, P.J.
Croskey, J.

DIVISION THREE (Continued)

B130879 Los Angeles County, D.C.F.S. (Not for Publication)
v.
Concepcion Z.

The order is reversed and remanded to the calendar of a different bench officer. The juvenile court is to reverse the section 366.26 hearing and proceed with a new and contested section 366.26 hearing as to Jose and Marina.

Kitching, J.

We concur: Klein, P.J.
 Schneider, J. (Assigned)

B121531 Melvin K. Arnold, etc., et al. (Not for Publication)
v.
Esther V. Van Meter, et al.

That portion of the judgment ruling that James, one of a number of settlors, did not have the power to unilaterally revoke the trust is affirmed. The portion of the judgment granting Victoria a beneficial interest in the corpus is reversed consistent with this opinion. Each side to bear their own costs on appeal.

Aldrich, J.

We concur: Klein, P.J.
 Schneider, J. (Assigned)

DIVISION FIVE

B125265 Brunton Enterprises (Not for Publication)
 v.
 Hill Crane Services Inc.

The judgment is reversed. Appellant to recover its costs on appeal.

Godoy Perez, J.

We concur: Grignon, Acting P.J.
 Armstrong, J.

B131016 People (Not for Publication)
 v.
 William Wright

For the reasons set forth above, we reverse and remand for resentencing as to only the four convictions alleged as enhancements under Penal Code section 667, subdivision (a) (1). The remainder of the judgment is affirmed in its entirety.

Godoy Perez, J.

We concur: Grignon, Acting P.J.
 Armstrong, J.

B110177 Stern Metals, Inc. (Not for Publication)
B128429 v.
 Joseph Ash

The orders appealed from are affirmed. Sanctions are imposed against Ash in the amount \$25,000 and his attorneys Robert Guevara and Robert G. Leff in the amount of \$2,500 each. Sanctions are payable to the clerk of this court within 30 days of finality of this decision. The State Bar is to be notified by the clerk of this court of the sanction award against attorneys Guevara and Leff. Stern is awarded its costs on appeal.

Grignon, Acting P.J.

We concur: Armstrong, J.
 Godoy Perez, J.

DIVISION FIVE (Continued)

B123693 Redevelopment Agency (Not for Publication)
 of the City of Long Beach
 v.
 Tom Hutchings

The judgment is affirmed. Plaintiff, the Redevelopment Agency of the City of Long Beach, is to recover its costs on appeal from defendant, Tom Hutchings, doing business as Public Image Gallery.

Turner, P.J.

We concur: Grignon, J.
 Godoy Perez, J.

B132442 Joyce S. Saxton (Not for Publication)
 v.
 Armando M. Galvan et al.

The order denying defendants' motion to compel contractual arbitration is affirmed. Plaintiff, Joyce S. Saxton, is to recover her costs on appeal, jointly and severally, from defendants, Armando M. Galvan and the Law Offices of Armando M. Galvan.

Turner, P.J.

We concur: Armstrong, J.
 Godoy Perez, J.

B128744 People (Not for Publication)
 v.
 Anthony Dupree

The judgment is affirmed.

O'Neill, J. (Assigned)

We concur: Turner, P.J.
 Godoy Perez, J.

February 15, 2000-Continued

DIVISION FIVE (Continued)

B127316 People (Not for Publication)
v.
Allen Jenkins

The judgment is affirmed.

O'Neill, J. (Assigned)

We concur: Armstrong, Acting P.J.
 Godoy Perez, J.

B129371 People (Certified for Partial Publication)
v.
Jose Diaz

The matter is remanded for resentencing in accordance with the views expressed above. In all other respects, the judgment is affirmed.

O'Neill, J. (Assigned)

We concur: Turner, P.J.
 Godoy Perez, J.

B126588 People (Not for Publication)
v.
Michael Saavedra

The judgment is affirmed.

Turner, P.J.

We concur: Grignon, J.
Godoy Perez, J.

February 15, 2000-Continued

DIVISION SIX

B134603 People v.
Goins

(Not for Publication)

The judgment is affirmed.

Perren, J.

We concur: Gilbert, P.J.
Coffee, J.

[illegible]

The judgment is modified to reflect a \$200 parole revocation fine (§ 1202.45). The clerk of the superior court is ordered to prepare an amended abstract of judgment reflecting the fine and to forward it to the Department of Corrections. In all other respects, the judgment is affirmed.

Yegan, J.

We concur: Gilbert, P.J.
 Coffee, J.

B131030 Townsend (Not for Publication)
v.
EMC Mortgage Corp.

The trial court is directed to vacate the June 8, 1999 "Judgment for Attorney's Fees" and to modify the October 22, 1998 judgment nunc pro tunc to reflect the award for attorney's fees. (Cal. Rules Ct., rule 870(b)(4).) The judgment (order awarding attorney's fees), as modified, is affirmed. EMC is awarded costs on appeal.

Yegan, J.

We concur: Gilbert, P.J.
 Coffee, J.

February 15, 2000-Continued

DIVISION SIX (Continued)

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The trial court is directed to issue an amended abstract of judgment reflecting that the \$200 restitution fine, imposed pursuant to section 1202.4, is the February 29, 1996 restitution fine. The judgment, as modified, is affirmed.

Yegan, Acting P.J.

We concur: Coffee, J.
Perren, J.

B132135 People (Not for Publication)
v.
Baca

The judgment is affirmed.

Yegan, Acting P.J.

We concur: Coffee, J.
Perren, J.

B127617 Brown (Not for Publication)
v.
Valenzuela Engineering, Inc.

The judgment is reversed. Costs to appellants.

Yegan, Acting P.J.

We concur: Coffee, J.
Perren, J.

February 15, 2000-Continued

DIVISION SIX (Continued)

[illegible]

The judgment is affirmed.

Perren, J.

We concur: Yegan, Acting P.J.
Coffee, J.

B123088 People (Not for Publication)
v.
Cockrell

The superior court shall modify the abstract of judgment to reflect the following: (1) a total of \$2,387,051.58 in direct victim restitution under Penal Code section 1202.4, subdivision (f), with the amount payable to each victim stated; (2) a \$1,000 restitution fine under Penal Code section 1202.4, subdivision (b); and (3) a \$1,000 parole revocation fine under Penal Code section 1202.45, to be stayed pending appellant's successful completion of parole. As so modified, the judgment is affirmed.

Coffee, J.

We concur: Yegan, Acting P.J.
Perren, J.

DIVISION SEVEN

B131604 People (Not for Publication)
v.
Jose C.

The order under review is affirmed.

Lillie, P.J.

We concur: Johnson, J.
 Neal, J.

DIVISION SEVEN (Continued)

B128190 Perez (Not for Publication)
v.
Methodist Hospital

The judgment is affirmed. Respondent(s) to recover costs.

Neal, J.

We concur: Lillie, P.J.
 Johnson, J.

B128082 Frankston (Not for Publication)
v.
Interwest Transfer Company, Inc.

The judgment is reversed and the cause remanded for further proceedings in accordance with this opinion. Appellant shall recover his costs on appeal.

Neal, J.

We concur: Lillie, P.J.
Woods, J.

B125754 People
v.
Blanco

Filed order denying petition for rehearing.

DIVISION SEVEN (Continued)

B133641 Yeganhe et al. (Not for Publication)
 v.
 Javaheri et al.

The judgment is affirmed. Respondents shall recover their costs on appeal.

Neal, J.

We concur: Johnson, Acting P.J.
 Woods, J.

B130494 Darby (Not for Publication)
 v.
 Granoff

The judgment is reversed and remanded for trial as to appellant's fraud claim, and affirmed as to appellant's other claims. Appellant shall recover her costs on appeal.

Neal, J.

We concur: Lillie, P.J.
 Woods, J.

Add to the minutes of February 14, 2000

B114605 Sully-Miller Contracting
 v.
 City of Arcadia

Sully-Miller, ASL, and City of Arcadia's petitions for rehearing denied by operation of law.